

January 22, 1986

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL  
MAYORAL APPOINTMENTS TO BOARD AND COMMISSIONS

Whether the City Council may direct that no appointments be made to advisory boards and commissions during the interregnum between mayors became an issue during discussion of Item 404 on the City Council docket of January 21, 1986. The answer is that the City Council may not direct that the Mayor make no appointments to advisory boards and commissions created pursuant to Section 43 of the City Charter.

Item 404 on the January 21 docket was entitled:

Matter of a discussion of the following  
nominees for appointment to fill three  
vacancies on the San Diego Stadium Authority  
Governing Board for four-year terms expiring  
on December 31, 1989: . . .

It should be noted that Item 404 addressed only appointments to the Stadium Board, an entity created by agreement between the City and the County of San Diego and not by any provision of our City Charter.

Paragraph (c) of Section 43 of the Charter, however, provides:

Whenever under the provisions of this Charter  
or ordinance the Mayor is vested with  
authority to appoint the members of boards or  
committees and does not take such action  
within forty-five (45) days after the board or  
committee has been established or a vacancy  
occurs, then the Council shall make such  
appointments. . . .

Obviously, the quoted language was adopted to deal with the situation where, for whatever reason, the Mayor fails to make prompt appointments to fill vacancies on Section 43 advisory

boards and commissions. The question which arose in connection with Item 404, however, concerns an attempt by the Council to create a hiatus in the process for an indefinite period of time.

Councilmember William Jones made the motion in question, saying:

I would make a motion that we at least for the time

being, until we have an elected Mayor or special circumstances where a board cannot function because of death or an unforeseen situation, we not make an appointment to any advisory board to the City Council.

The motion was seconded by Mr. Martinez and passed by a 5-3 vote.

We believe that, in light of Paragraph (c) of Section 43, the motion was effective only with respect to the appointments then before the Council; i.e., the two vacancies on the Stadium Board. Section 43 clearly makes it the duty of the Mayor to make an appointment for each vacancy on a board created by that section, within forty-five days after the vacancy occurs. The Council may not relieve the Mayor of that duty nor direct him not to fulfill it.

At the time such mayoral appointments are made and the matter regularly appears on the Council docket, the Council's Charter duty will be to confirm or reject each such appointment. In case of rejection, the Mayor would remain under the duty to submit new appointments within the forty-five day period. The duties of the Mayor, of course, are required by Section 25 of the Charter to be performed by the Deputy Mayor when the Mayor is absent or otherwise unable to perform his duties, a condition which prevails when there is no Mayor.

Respectfully submitted,  
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